

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION
No. 5:09-CV-205-D

LORD CORPORATION,)
Plaintiff,)
v.)
HULTEC S&B TECHNICAL PRODUCTS,)
INC., HULTEC TERRAMIX S.A., and)
MARK A. WEIH,)
Defendants.)

ORDER

On December 13, 2010, Magistrate Judge Gates issued a Memorandum and Recommendation (“M&R”) [D.E. 345]. In that M&R, Judge Gates recommended that plaintiff’s Rule 56(f) motion [D.E. 227] be granted and that defendants’ motion for partial summary judgment [D.E. 190] be denied without prejudice. On December 28, 2010, defendants filed objections to the M&R [D.E. 363]. On January 11, 2011, plaintiff responded to defendants’ objections [D.E. 367].

“The Federal Magistrates Act requires a district court to make a de novo determination of those portions of the [magistrate judge’s] report or specified proposed findings or recommendations to which objection is made.” Diamond v. Colonial Life & Accident Ins. Co., 416 F.3d 310, 315 (4th Cir. 2005) (alteration in original) (emphasis removed) (quotation omitted). Absent a timely objection, “a district court need not conduct a de novo review, but instead must only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.” Id. (quotation omitted).

The court has reviewed the M&R, the record, defendants’ objections, and plaintiff’s response to the objections. As for those portions of the M&R to which defendants made no objection, the court is satisfied that there is no clear error on the face of the record.

The court has reviewed de novo the portions of the M&R to which defendants objected. The court overrules the objections and adopts the M&R [D.E. 345]. Plaintiff's Rule 56(f) motion [D.E. 227] is GRANTED and defendants' motion for partial summary judgment [D.E. 190] is DENIED without prejudice. In due course, the court will address the second motion for partial summary judgment [D.E. 346].

SO ORDERED. This 25 day of January 2011.



JAMES C. DEVER III
United States District Judge